



भारत का राजपत्र

The Gazette of India

प्रसाधारण

EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 43] नई विल्सन, बृहदार, सितम्बर 5, 1900/भाद्र 14, 1912

No. 43] NEW DELHI, WEDNESDAY, SEPTEMBER 5, 1990/BHADRA 14, 1912

इस भाग में विशेष पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 5th September, 1990:—

BILL No. LVI OF 1990

A Bill further to amend the Indian Ports Act, 1908.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Ports (Amendment) Act, 1990.

Short title
and com-
mencement.

(2) The provisions of this Act, except section 2, shall come into force at once and section 2 shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

15 of 1908. 2. In section 3 of the Indian Ports Act, 1908 (hereinafter referred to as the principal Act),—

Amend-
ment of
section 3.

(a) for clause (6), the following clause shall be substituted, namely:—

44 of 1958. (6) "ton" means a ton as determined or determinable by the rules made under section 74 of the Merchant Shipping Act, 1958, for regulating the measurement of the gross tonnage of ships:—

(b) in clause (8), the word "and" shall be inserted at the end.

Amendment
of section
14.

3. In section 14 of the principal Act,—

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

"(1) If any vessel is wrecked, stranded or sunk in any port in such a manner as to impede or likely to impede any navigation thereof, the conservator shall give notice to the owner of the vessel to raise, remove or destroy the vessel within such period as may be specified in the notice and to furnish such adequate security to the satisfaction of the conservator to ensure that the vessel shall be raised, removed or destroyed within the said period:

Provided that the conservator may extend such period to such further period as he may consider necessary having regard to the circumstances of such case and the extent of its impediment to navigation.

(1A) Where the owner of any vessel to whom a notice has been issued under sub-section (1) fails to raise, remove or destroy such vessel within the period specified in the notice or the extended period or fails to furnish the security required of him, the conservator may cause the vessel to be raised, removed or destroyed.

(1B) Notwithstanding anything contained in the foregoing sub-sections, if the conservator is of the opinion that any vessel which is wrecked, stranded or sunk in any port is required to be immediately raised, removed or destroyed for the purpose of uninterrupted navigation in such port, he may, without giving any notice under sub-section (1), cause the vessel to be raised, removed or destroyed.";

(b) in sub-section (2),—

(i) for the words, brackets and figure "under sub-section (1)", the words, brackets, figures and letters "under sub-section (1A) or sub-section (1B)" shall be substituted;

(ii) for the words "two months", the words "thirty days" shall be substituted.

Amendment
of section
21.

4. In section 21 of the principal Act,—

(a) in sub-section (2), for the words "five hundred rupees", the words "five lakh rupees" shall be substituted;

(b) in sub-section (3), for the words "two months", the words "one year and to fine which may extend to five lakh rupees" shall be substituted.

Amendment
of section
33.

5. In section 33 of the principal Act, in sub-section (8), for the words "sixty days", the words "thirty days" shall be substituted.

6. In section 36 of the principal Act, in sub-section (5a), after the words "subject to this Act", the brackets and words "(other than a major port)" shall be inserted.

Amend-
ment of
section 36.

7. In section 42 of the principal Act, the following provisions shall be inserted at the end, namely:—

Amend-
ment of
section 42.

"Provided that where such vessel or other thing is already arrested under the order of a court or other authority, the authority appointed to receive port-dues, fees or other charges, may sell the vessel or other thing only with the prior permission of such court or other authority and satisfy the port-dues, fees or other charges and the costs including costs of sale remaining unpaid, and disburse the surplus, if any, in accordance with the orders or directions of such court or other authority:

Provided further that the person to whom the vessel or other thing is sold under this section, shall be deemed to be the owner thereof and registered as such under the Merchant Shipping Act, 1958."

44 of 1958.

8. In the Major Port Trusts Act, 1963,—

Amend-
ment of
Act 38 of
1963.

(a) in section 87, the words, brackets, figure and letter "excluding all fees and all fines and penalties creditable to the pilotage account of the port under sub-section (5a) of that section" shall be omitted;

(b) section 89 shall be omitted;

(c) in section 97, the words, brackets, figure and letter "not being works the cost of which is chargeable to the pilotage account of the port under sub-section (5b) of that section," shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Under clause (6) of section 3 of the Indian Ports Act, 1908, 'ton' is defined in terms of Net Tonnage of a Ship. The present practice of recovering some charges on the basis of the G.R.T. of the vessel (mostly charges leviable under the Major Port Trusts Act, 1963) and some others on N.R.T. (port-dues), is not consistent with the idea of simplification. Accordingly, only one base, namely, G.R.T., which is a widely accepted basis for levying charges and also a more reliable index of the vessel's size in terms of the space, may be adopted for levying all charges applicable to a vessel. It is, accordingly, proposed to amend clause (6) of section 3 of the Indian Ports Act to change the definition of 'ton' related to Gross Tonnage of the vessel as defined in the Merchant Shipping (Tonnage Measurement of the Ships) Rules, 1960.

2. For quite sometime, major ports have been exercised over the problems of abandoned vessels and wrecks. These have an adverse impact on port operations. Section 14 of the Indian Ports Act deals with raising or removal of wrecks impeding navigation within the limits of the port. Presently no duty is cast on the owner for the removal of a wreck. It is now proposed to cast a duty on the owner of a vessel to remove the wreck, etc, within such period as may be specified in the notice given by the conservator, if such wreck impedes or likely to impede the navigation in the port. However, it is also proposed to give power to the conservator to raise, remove or destroy a wreck without notice to the owner for the purpose of uninterrupted navigation in the port. It is, therefore, proposed to amend section 14 of the Act accordingly.

3. Section 21 provides for a penalty extending up to five hundred rupees for discharge of ballast or rubbish, or any other thing likely to form a bank or shoal or to be detrimental to navigation and if the master of the vessel continues to commit the offence, he is also liable to simple imprisonment which may extend to two months. These provisions are quite inadequate and there is a need to increase the penalty to the same extent as provided in the Merchant Shipping Act, 1958. It is, therefore, proposed to raise the penalty to five lakh rupees and if the master of any vessel continues to cast, throw or discharge the same after receiving the notice from the conservator, the master shall be liable to a further fine which may extend to five lakh rupees and shall also be liable to imprisonment which may extend to one year.

4. Section 33 of the Indian Ports Act, *inter alia*, provides for a levy of port dues by the Government and sub-section (5) thereof specifies a period of sixty days on the expiration of which an order increasing or imposition of port dues shall take effect. In view of the improvement in communication system, it is proposed to reduce the period from sixty days to thirty days.

5. Section 36 of the Indian Ports Act provides for maintenance of pilotage accounts in ports. Since pilotage became a part of the port administration, the rationale for making separate pilotage account was lost

and it is only logical to merge it with other charges. It is, accordingly, proposed to amend section 36 to dispense with the maintenance of separate pilotage accounts in the major ports.

6. Section 42 of the Indian Ports Act deals with distress and sale of a vessel on refusal to pay port charges. Under this section, if the master of any vessel refused to pay the rates payable to the port trust, the port authority can arrest and sell the vessel after giving notice. There are occasions, when a vessel is already under arrest under the order of a court or other authority. In such circumstances the port shall have the power to arrest and sell the vessel for recovery of dues only after obtaining the prior permission of the court or other authority making such order. It is also proposed to provide that the buyer of the vessel in such sale should have authority under the law to transfer the ownership of such vessel to some other person. It is proposed to amend section 42 accordingly.

7. Opportunity is also being taken to make consequential amendments in the Major Port Trust Act, 1963.

8. The Bill seeks to achieve the above objectives.

K. P. UNNIKRISHNAN.

SUDARSHAN AGARWAL.

Secretary-General.

